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C O N F I D E N T I A L SECTION 01 OF 04 ACCRA 002427

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SUBJECT: CORRUPTION IN GHANA II: FIGHTING BACK

REF: ACCRA 2425

Classified By: Ambassador Pamela E. Bridgewater for reasons 1.5 (B) AND (D)

¶1. (C) Summary: Reftel looks at corruption in Ghana, and this cable examines efforts to tackle the problem. Since President Kufuor came to office in 2000, Ghana has passed three anti-corruption laws, established an Office of Accountability in the presidency, allowed a more free media environment, and offered Ghana as the first country to undergo a Peer Review under the NEPAD Peer Review Mechanism. The GOG's multiple anti-corruption agencies have had minor success. Chief Justice Acquah has instituted important reforms in the judiciary to address judicial corruption. Civil society and the media are vocal on corruption issues. Nonetheless, anti-corruption efforts in Ghana have a long way to go and at times are seriously undercut by a lack of political will. We can, and will play a greater role in helping the fight against corruption, which is key to all our MPP goals in Ghana. End summary.

Government Talks the Talk

¶12. (C) In his inaugural speech in 2000, President Kufuor committed his government to "zero tolerance" of corruption. In meetings with the Ambassador over the past year, the President and Minister of Defense separately voiced concern about corruption allegations and affirmed their commitment to good governance, a message they also delivered in public remarks. On November 14, 2005 in a speech read by the Foreign Minister at an anti-corruption conference, President Kufuor said "I reaffirm my government's zero tolerance for corruption, and once again call on members of the political class, public service, civil society and the entire nation to accept the challenges so that we can collectively win the war". He pointed out that the GOG has signed the UN Convention Against Corruption and plans to submit to parliament the African Union Convention on Preventing and Combating Corruption.

Government Anti-Corruption Institutions

¶13. (U) The GOG has several anti-corruption institutions:

CHRAJ: The 1992 constitution mandated the establishment of the Commission on Human Rights and Administrative Justice (CHRAJ) to investigate all allegations of corruption and misappropriated public funds, and to take countermeasures. CHRAJ also has a mandate as a human rights commission and ombudsman.

The Police: The Criminal Investigations Division (CID) of the Ghana Police engages in fighting corruption and economic crime. On June 27, the police created a new unit, the Police Intelligence and Professional Standards Bureau (PIPS), to investigate public complaints and alleged malfeasance by police.

SFO: The Serious Fraud Office (SFO), under the Ministry of Justice, is charged with investigating and prosecuting offenses involving serious financial loss to the state. It has expertise in detecting certain kinds of corruption and economic crime (such as procurement fraud).

Office of Accountability: In 2003, President Kufuor established this office within the presidency aimed at preventing corruption by political appointees in government and reinforcing a culture of transparency and good governance.

¶14. (C) These institutions have had some success. In 2004, the Serious Fraud Office (SFO) investigated 83 cases involving appropriation of state assets by public officials, tax evasion and procurement or contract fraud. This was markedly down from 117 investigations in 2003. Acting

Executive Director T.A. Codjoe attributed this drop to declining resources. In the majority of these cases, the SFO either found no wrongdoing or is continuing to investigate. The official said the SFO is unlikely to bring down any top officials who condone, sanction or benefit from such corruption because his agency receives signals to cool such politically sensitive investigations, and that corrupt top officials operate through underlings to cover their tracks.

15. (C) CHRAJ is working on a Conflict of Interest Regulation as mandated by the constitution and plans to implement a new electronic case management system for corruption investigations. CHRAJ is aided by oversight from the Accountant General's office, the Auditor General and Attorney General's offices. The Accountant General's office has trained 10,000 people on anti-corruption laws. The new Auditor General has quickly moved to improve the performance of his office, reducing backlogs. In addition, the GOG created a new Ministry of Public Sector Reform. In July 2005 the Commissioner of Value Added Taxation fired a senior official for accepting a \$30,000 bribe from a distillery company. The Ghana Education Service has set up task forces to investigate reports of massive misappropriation of funds.

16. (C) Nonetheless, the GOG's anti-corruption institutions are under funded, understaffed, and lack adequate political will. While they operate with some independence, they are also subject to political influence. For example, the President appoints all SFO Board members. The Director of the Auditor General's office admitted in a recent workshop that the AG's independence is "a gray area". The Accountant General rep noted that some public entities are outside the purview of their organization. CHRAJ is run by an Acting Commissioner who has limited powers and can be easily fired by the President. The budgets of CHRAJ, the Auditor General and the Accountant General were cut by 40-50% last year, during a time of economic and budget growth. Coordination between GOG anti-corruption agencies and other government entities is poor. There is also some confusion about the mandates and roles of CHRAJ and SFO in fighting corruption.

----- Anti-Corruption Laws Weak -----

17. (C) Ghana's constitution and the 1998 Declaration of Assets and Disqualification Act require many public officials to declare their assets to the Auditor-General. However, the Auditor General interprets the law as barring him from opening declarations except when compelled by formal investigation. Neither the Auditor General nor CHRAJ have the power to verify the accuracy of the declarations.

18. (C) In 2003, Ghana's parliament passed the Financial Administration Act, the Internal Audit Agency Act, and a Public Procurement Act to strengthen the anti-corruption regime. Most observers believe that while these laws are generally adequate, they have not yet been fully implemented. According to a recent analysis by The Ghana Integrity Initiative (the local chapter of Transparency International) the Public Procurement law is overly vague, especially for national procurements. It is limited to small tenders, fails to establish auditing and oversight bodies as well as a legal definition of what constitutes bribery, and lacks adequate constraints on sole sourcing. The Public Procurement Board is weak, with little staff and no permanent location, although it claims to have increased the transparency in public tender advertisements.

----- Chief Justice Speaks Out -----

19. (C) Chief Justice Kingsley Acquah has been very outspoken against corruption, especially in the judiciary. He published the judiciary's first-ever annual report in 2004, which details efforts to modernize and improve transparency in the courts through automation, creation of a commercial court and Fast Track courts, and reforming magistrate courts. The 2005 annual report focuses on the Supreme Court's new Code of Ethics and its upgrading and expansion of the Court Inspectorate and Public Complaints Unit, which received four complaints about judicial corruption in June 2004-June 2005. Despite this activism, corruption in the judiciary is tolerated. Acquah has at times failed to show firm resolve against suspected corrupt judges and others in the judiciary, including the Director of the Law School, who is alleged to be involved in corrupt book importation.

----- Civil Society Also in the Fight -----

110. (U) Ghanaian civil society is vocal about corruption.

The SFO and CHRAJ are members of the Ghana Anti-Corruption Coalition (GACC), which includes GOG and NGO organizations dedicated to fighting corruption through public advocacy and advocacy for legal reforms. The Coalition continues to press for passage of long-pending Whistleblower's and Freedom of Information laws, and for adequate implementation of the Public Procurement Act and other 2003 anti-corruption legislation. (The Whistleblower bill is expected to pass in this session of parliament.) The Institute of Chartered Accountants, the Ghana Bar Association, and some business and religious leaders have also been outspoken in criticizing corruption.

¶11. (C) The Kufuor administration's early decision to remove the criminal libel law (although there is still a civil libel law) has helped foster a lively media, which reports almost daily on alleged corruption. NGO and media contacts tell Emboffs they generally feel free to probe and report on corruption allegations without political interference. However, newspapers are under some political pressure to suppress stories about corruption. The editor of the Enquirer, who has been very aggressive in reporting on high level corruption, told PolChief on November 25 that he has faced serious pressure from the president and his staff to back off of corruption stories, especially related to his investigation of the Confederation of African Football stadium deal (which implicates the GOG in accepting bribes from the Chinese) and the presidency's alleged use of procurement kickbacks to fund the ruling party. He showed polchief pictures of a recent attack on his car that shattered a window. He said his landlord is being pressured to evict him, his advertisers have been pressured to withdraw funding to his newspaper, and he fears for his safety.

What We Can Do

¶12. (C) In 2004, we funded a successful anti-corruption cartoon campaign through our Democracy and Human Rights Fund. We also used INL funds to provide computers to an Internal Monitoring Unit in the police and we gave limited support to anti-corruption efforts in Customs. A significant step in the right direction is USAID/Ghana's proposed \$500,000 Anti-corruption Reform Program, which is still in the design phase but is examining ways to support the Auditor General's office, CHRAJ's draft Conflict of Interest Regulation, public sector reform, and other anti-corruption measures.

¶13. (C) We can do more. Corruption impacts all of our MPP goals in Ghana and merits significant Mission focus over the coming year. Post has made it a priority to raise corruption issues in meetings with GOG officials and in public remarks (as the Ambassador did several weeks ago at the November 7 Consultative Group meeting.) We will work with Ghanaian businesses and professional associations to strengthen their understanding of the economic costs of corruption, and their ability to advocate for change on this issue. (Private companies, especially Ghanaian ones, are reticent to touch the issue both publicly and privately because they are heavily dependent on government business.)

¶14. (C) We will also press the IMF, World Bank and other donors here to insist on greater controls and transparency in their transactions with the GOG. Ghana is rewarded heavily for good governance with debt relief and significant increases in donor funds, which may be signaling to the GOG that donors do not perceive corruption to be a problem. We will look for ways to better leverage donor funding (including the MCA funds) to help combat corruption, through conditionality, strong oversight and anti-corruption components.

¶15. (C) We will work with Washington to identify funding to support anti-corruption NGOs in Ghana, many of which are doing good work but are woefully under-resourced. Our efforts should focus on strengthening institutions and the implementation of existing governance laws. We will also work to raise public awareness of corruption, to improve donor accountability, and to strengthen automation and transparency in government transactions. We should reinforce positive steps from the government and those within the GOG -- such as the Chief Justice and the Minister of Finance -- who seem committed to fighting corruption.

Comment

¶16. (C) This is a critical time to press the GOG on the corruption issue. Ghana has a real chance to develop into a middle-income nation, in part thanks to current high gold and cocoa prices, good macroeconomic management, and a rising flow of donor funds. Corruption in Ghana is not yet regime-threatening or on a Nigeria scale. However, while commending Ghana's economic and political successes, the USG

should also register our growing concern that corruption could undermine economic development, investor confidence, democratic development and Ghana's international reputation.

¶17. (C) The government seems to be slowly waking up to this concern, in part because of media and donor pressure. As Anna Bossman, Acting Commissioner of CHRAJ recently stated, "Would anyone take Ghana seriously as we take up our seat on the Security Council, hold the chairmanship of ECOWAS or the AU if we are perceived by the world to be so notoriously and irredeemably corrupt?" Recent press coverage suggests the GOG has become more aggressive about combating corruption at low levels. Ghana has adequate anti-corruption laws and committed individuals in its anti-corruption institutions, but their resources are small in comparison to the problem.

18.(C) As Bossman and the Chief Justice have publicly stated in recent conferences, the fundamental problem in Ghana is lack of political will to tackle corruption. The GOG's failure to sufficiently fund anti-corruption institutions, its reluctance to engage (or listen to) donors on corruption issues, and its tolerance of high level corruption has damaged its credibility. President Kufuor retained three ministers in his second term who were held up during parliamentary vetting because of corruption allegations. He was slow in responding to reports of his inappropriate involvement in the hotel purchase. The GOG has not responded to opposition claims of widespread corruption involving HIPC funds. All of this has the potential to hurt the ruling NPP party's chances in the 2008 national elections, and to deepen the long-standing complacency about corruption in Ghana, whatever the political leadership. End comment.

BRIDGEWATER